

Minutes of March 25, 2013

PRESENT: Philip Bean, Chairman
Richard Nichols, Vice Chairman
Michael Pierce, Selectmen
Ben Moore, Selectmen
Mary-Louise Woolsey, Selectmen
Frederick Welch, Town Manager
Mark Gearreald, Town Attorney
Kristina Ostman, Administrative Assistant

SALUTE TO THE FLAG

I. Public Comment Period

Richard Reniere, 29 Highland Ave, Moderator for the Beach Village District informed the public that the Hampton Beach Village district meeting to elect offices is this Friday, March 29, 2013; 1-7 PM. A valid picture ID is required to vote.

Art Moody, 3 Thomsen Road; commented on the public comment period; spur road and granite curbing; suggested smaller agendas; warrant articles; code book; corrected the spelling of Bicentennial Park; Reverse 911; mutual aid.

II. Announcements and Community Calendar

Selectmen Pierce reminded the voters in the District to get out and vote.

Selectmen Moore announced the rescheduling of the Easter Egg Hunt for Saturday.

Selectmen Woolsey spoke about community involvement and how pleased she is.

III. Appointments

1. Michael Schwotzer
 - a. Monthly Financials

Mr. Schwotzer gave a brief overview on the February Monthly Financials.

Board Members Pierce, Nichols and Woolsey discussed with Mr. Schwotzer: the negative number in the Financials; overall DPW overtime accounts being overspent; DPW Snow Removal account; Police Details administrative fee; encumbrance's carryovers from year to year; the LGC credit; Cable Equipment Account.

Mr. Schwotzer explained his analysis of year 2012 total wages and total overtime versus year 2011 as shown in the Annual Reports; and the reason for the differences; there is a 1.6% change between the two years.

Board Members Nichols and Woolsey discussed with Mr. Schwotzer: the Adjustments; the Salary Reports in the Annual Report; CBA's warrant articles accounting for some change; General Fund impact; management analysis on increased overtime.

b. GASB 35 & 41 Compliance/Execution/Audit Recommendations 2011

Mr. Schwotzer corrected the numbering of the GASB, 35 is 34 and 41 is 45; independent auditors report from 2011; management did not record capital assets GASB 34; management did not record long-term cost of retirement healthcare GASB 45; qualified audit and what it is effecting.

Mr. Schwotzer went through GASB 34 what needs to be done to be compliant inventory of property; its depreciation; has to be auditable; need list of owned property; have to have deeds on properties; insurance of vehicles; includes roads, manholes, buildings; verify cost of property; very large project.

Board Members Pierce, Moore, Nichols, Woolsey, and Bean discussed with Mr. Schwotzer: what town property means; Bond Market in respect with GASB 34; management use of this information; cost of additional audit; beneficial use of this in the private sector not the same for the Town; Depreciation charges versus investment policy; Income taxes; Schedule of Town property; the re-cooping of Costs from the State; method of re-capturing costs; analyst time that this would take; expense of having this done on the outside.

Mr. Schwotzer discussed GASB 45 and what needs to be done long-term cost of retirement healthcare; solicitations received from different firms; actuarial needs to take information and come back with presentation with calculations; cost received from quotes; recommendation to go with USI for \$3,900; discussed money available for this in the audit line in the amount of \$4,350.

Board Members Moore, Nichols, Woolsey and Bean discussed with Mr. Schwotzer the above subject: what GASB 45 means; long-term costs for healthcare; how often actuarial has to look at this census; motivation to reduce the number of exceptions the auditor includes in auditor statements; post-retirement medical; the positive variance in the budget; liability to NHRS, not to the Town; the next GASB and its effect on the Town.

The Board is not in favor of pursuing work on either of these GASB requirements at this time.

c. Encumbrance for the Town of Hampton Code of Ordinance

Mr. Schwotzer explained this is money to go forward to pay for the code book.

Mrs. Woolsey MOTIONED to take the \$14,350 designated in a purchase order out of 2012 off the Books and let the encumbrance lapse since it was done illegally and should not have been done at all SECONDED by Mr. Pierce.

Discussion on the motion

Board Members Pierce, Moore, Nichols and Woolsey discuss among themselves the vote of encumbrance; have to stop work since money is not available; number of times it has been voted on; how Board members have voted in regards to this previously; total spending of budget; updates and correction of the Code of Ordinances be put on-line.

Mr. Nichols indicated that he would still like to see some of the code book updating move forward with the objection of the online ordinances being update through the 2013 ballot.

VOTE: 4-0-1(Moore)

2. Keith Noyes

a. Hazard Mitigation Funds

Mr. Noyes spoke on the following: FEMA reimbursement filed in 2008; address drainage problems in the downtown area; scheme of work; grant approved by FEMA; letter received last year; Town must contribute \$50,000; concern with cost being higher than granted; money has been put in his budget; FEMA slim that we would get this additional funding; importance of this project; how flooding affects local businesses; according to FEMA it is all or nothing; proposes to proceed with a preliminary design costing \$15,000 to see what the final cost of project would be; cost of final design.

Board Members Pierce, Moore, Nichols discussed with Mr. Noyes, DPW Director and Mr. Jacobs, Assistant DPW Director: Hazard Mitigation Funds for drainage improvements; the preliminary design for; final design; selection of the firm; drainage account funding; limits of drainage analyses; absorbs line item for drainage; how far the work will go out from Lafayette Road; replacement of clay pipe with larger plastic pipe.

Mrs. Woolsey MOTIONED to allow the DPW Director to proceed with the preliminary drainage design for High Street SECONDED by Mr. Pierce.

VOTE: 5-0-0

b. Bicentennial Park

Mr. Noyes, DPW Director discussed the damage at Bicentennial Park; crack in seawall; recommendations for repair.

Board Member Pierce discussed with Mr. Noyes who owns the seawall.

c. Church Street

Mr. Jacobs, Assistant DPW Director discussed the removal of the dirt from the site of the Church Pump Station to another construction site in Town, it has stopped; construction will continue throughout the year; accounting and compensation to the Town for the value of dirt removed; valued at around \$300; contractor put on notice; contractors conformance with the noise ordinance.

Board Members Woolsey discussed with Mr. Jacobs: whether the Town will be reimbursed; cautioned about slopping dirt around the neighborhood; rely on neighbors to notify Town of problems.

d. Tuck Road/Cogger Street Purchasing Policy

Mr. Nichols read a prepared statement regarding this subject.

Mr. Nichols MOTIONED to direct the Town Manager to conduct an evaluation of financial controls in his office, the Finance office, and at the departmental level in relation to their effectiveness in assuring compliance with the Town's Purchasing Policies and Procedures and report back to the Board of Selectmen with a plan for corrective action SECONDED by Mrs. Woolsey.

Discussion on motion

Board members Pierce, Nichols, Woolsey and Bean discussed with Mr. Noyes, Mr. Jacobs, Assistant DPW Director, Mr. Lessard, and Mr. Welch: the purchasing and policy procedures; non-procedural purchasing has increased over the past year; Town absorbing cost of materials for a project; itemization of costs; Mr. Silberdick email; the one bid quote of \$88,000; the logic of the bid procedure; actual cost \$53,072; lack of competitive bids; focused on the procedure not the contractor; looked at 2 companies and went with the lower cost; pre-bid meeting; situation in the past requiring emergency action; size of project; the pressure from the Board to get this work done due to the problem of drainage in this area; the importance of situations requiring action immediately; procedure of the policy; irrelevant who the contractor is involved; refusal of the Board to fix a lot of things in this Town; everything does not fall into a narrow parameter; no objection to looking at the policy; timing of all the work done and meetings the Board had between this time; what the motion means; Mr. Noyes as the Director takes full responsibility.

VOTE: 4-0-1(Moore)

e. Lafayette and Winnacunnet Roads – Spur

Mr. Noyes provided the following information: cost of a curb cut; constructed curb island at the Galley Hatch Restaurant; estimated cost about \$5,000; drainage will not be a problem.

Board members Pierce, Nichols, and Woolsey discussed with Mr. Noyes, DPW Director, and Mr. Welch: the exact location of curb cut; the closing of the closest curb cut that empties onto the spur road; close off the access from Lafayette Road; Spur Road not being made one-way at this point; safety concerns; the closing that was approved in the warrant article; only in favor of doing what has been approved by the voters.

Mrs. Woolsey MOTIONED to move pursuant to the Town Manager's memorandum to the Board dated March 15th; the curbing, the Island, the no parking area and the signage; the implementation of the Planning Board approved plan of the conveyance of the land to Galley Hatch SECONDED by Mr. Nichols.

Discussion on motion

Mr. Nichols confirmed with Mrs. Woolsey that issue of the spur being one-way is not part of this motion.

Mr. Pierce MOTIONED to amend the motion, motion failed for a lack of a second.

VOTE: 4-1(Pierce)-0

f. Recycling Services Contract

Mr. Noyes provided the following information: Town's original intent to use Concord Co-Op; need of alternate facility; interim relation bringing recyclables to Casella; two companies available ecomaine and Casella; recommend contracting with Ecomaine providing reasons why; pairing up waste in the future; considerable savings in transportation cost; memo to Board.

Mrs. Woolsey MOTIONED to approve the recommendation of selecting ecomaine for the recycling Services Contract to begin as soon as possible SECONDED by Mr. Nichols.

Board members Pierce, Moore, Nichols, and Woolsey, discussed with Atty. Gearreald and Mr. Noyes, DPW Director: the selection of ecomaine for the recycling services contract; zero floor negotiated; thirty dollars ceiling; transportation incentive; higher value to Town with ecomaine; contract with Waste Management ends on July 1st; items in the contract need to be worked through; signing of the contract as soon as possible April 1st; contract to begin before June 30th.

VOTE: 5-0-0

g. Moose Plate Grant for the Grist Mill

Mr. Noyes gave a history of the work on the Grist Mill and that monies are available up to \$10,000; money approved in warrant article; work that has been done so far; Grist Mill Committee, requests the authorization to apply for the grant money; Atty. Gearreald explained the RSA in detail, which is to accept, and expend unanticipated monies through the public hearing process.

Mrs. Woolsey MOTIONED to approve the holding of the first public hearing in respect to applying for the Moose Plate Grant for the Grist Mill SECONDED by Mr. Pierce.

Board members Pierce, Nichols and Mr. Noyes discussed the following: previous grant; members of the Grist Mill Committee; Selectmen sponsored committee; money voted on for the roof through a warrant article; what work has been done on the foundation.

VOTE: 5-0-0

h. Special Agreements/Exemptions for Disposal of Trash

Mr. Noyes made the following comments: identified that the Casino and the Ashworth are receiving allowances of 15,000 pounds a week through agreements that were not authorized by the BOS or Town Meeting; spent a lot of time on trash issues in Town; does the Board want to continue this practice.

Board members Pierce, Moore, Nichols, and Woolsey and Mr. Noyes discussed memos between John Hangen and the establishments; the volume of trash disposed of; curbside versus them bringing trash to the Transfer Station; no limit on curbside tonnage; weight slips for volume; to be discussed next week.

i. Scooter Parking at King's Hwy and Ocean Blvd Residential Lot

Mr. Noyes discussed the following: asked to take a look at an area for scooter parking; the measuring he did at the State Park for that type of parking space; good to go with the signage; painting of lines can be done at the beginning of May.

Board member Nichols and Mr. Noyes discussed the painting of the scooter parking; details already approved by the Board; issue with someone wanting more scooter spaces.

j. Beach Sidewalk Issues – Atlantic Avenue

Mr. Noyes discussed the following: reviewed letter from resident and attorney; dense residential area; private parking areas and driveways; parking issue should be deferred to Chief Sullivan; dead-end sign being installed.

Board members Pierce, Moore, and Woolsey and Mr. Noyes discussed the Beach sidewalk issue on Atlantic Avenue; cost for installing the sidewalks at \$35,000, ; installing new sidewalks would be costly; DPW total budget for sidewalks is 26,000; dead-end sign to be

installed; asphalt versus concrete sidewalks; need to reply to the writers of the letter with more of a final decision; removal of the sidewalk; repair the road with removal of the sidewalk; condition of the street; liability to the Town.

Mrs. Woolsey MOTIONED to remove the sidewalk and make it part of the street when the Public Works Budget allows.

Chairman Bean asked to take the motion off the floor and suspend this for thirty days.

IV. Approval of Minutes

1. March 11, 2013

Page 2, Second sentence before the Consent Agenda; add “and were emailed early this afternoon.”

Correct the spelling of Mr. Pierce on page 3.

Mr. Moore MOTIONED to APPROVE the Minutes of March 11, 2013 SECONDED by Mr. Pierce.

VOTE: 4-0-1(Woolsey)

V. Town Manager’s Report 2:27:49

1. Grants for the Hampton Red Light Running Patrols Project 315-13A-167 and for Hampton DWI/DUI Patrols Project No. 308-13A-078 have been approved.
2. Senator Stiles has notified the Town that the Hampton Harbor Marine Facility Rehabilitation Project Contract has been awarded to Sea & Shore Construction Company by Pease Development Authority’s Board of Directors.
3. Report from the Emergency Management Department regarding the Reverse E-911 System.
4. Power outages on Tuesday, March 19, 2013 were caused by a broken wire out in the marsh. Power was restored at 6:40 AM according to Unitil.

Mr. Welch added the following item President declared storm February 9th and 10th as a major disaster.

VI. Business of the Board

1. RSA 674:41,I,(d),(1)
 - a. Keefe Avenue Development

Peter Saari discussed the above subject: meetings with Planning Board; not sure where they stand in regards to trash pickup and snow plowing; willing to take care of this themselves.

Board Members Pierce, Moore, Nichols, Woolsey, Bean, Atty. Gearreald and Peter Saari, Joe Soucy of Donik Corp., and Joe Coronoti of Jones and Beach Engineers discussed the above subject: the turning of fire vehicles in the hammerhead; wetlands boundary; condominium association; drainage on Keefe; repaving of the road; timing on the decision according to the RSA 674:41, I,(d),(1); issuance of building permits; condominium trash, recycling and snow removal; emergency lane status; condominium document one stipulation that cannot be amended; should the Town pick up trash, recycling and plowing on newly developed private property; picking up trash or snow removal on private roads; substandard lots; no adequate

room for a cul-de-sac; waste disposal; subdivision just like others on streets in this area; conditional approval by Planning Board; waste disposal.

Mr. Bean read the Planning Boards letter of conditional approval.

Mr. Noyes spoke to the concerns of the Development with respect trash pickup; concerns with backing up of the trash and snow removal vehicles; snow removal.

Board Members Bean, Pierce, Moore, Nichols, Woolsey discussed with Mr., Noyes, Chief

Silver and Atty. Gearreald: concerns with the contractual commitment to trash pick-up; currently trucks can turn at end of road; largest fire apparatus can turn according to plans; concerns when there is snow; satisfies Fire requirements at this point according to the site plan; how do they intend to accomplish these requirements; have not received appropriate responses to all questions asked in regards to document in front of Board; concerns with numerous fire apparatus responding to a fire; fire lane and emergency lane designation; retain fire lane status and emergency lane; no seasonal fire lanes; difference in existing properties compared to what is being proposed; issues Board is addressing tonight snow/trash/recyclable removable agreement, proposal from Keefe Ave Development is to take care of snow on all of Keefe Ave, take care of trash/recycling for development, repave entire road and address drainage problem; number of streets we have to back down with trucks; additional discussion on condominium docs; exciting to have development on the west side of Ashworth Ave; real gem; encouraged by project.

Mr. Moore MOTIONED to move that the Town Atty. Gearreald begin negotiations with the petitioner's Counsel to come up with a document that satisfies the concerns of the Planning Board and to put in writing the commitments made by the Developer for the Board to approve at a later meeting SECONDED by Mr. Nichols.

Discussion on the motion

Mrs. Woolsey commented as follows: asked what satisfies what concerns of the Planning Board; what conditions; inadequate hammerhead and the absent of a cul-de-sac; absolutely opposed; Mr. Moore went through the commitments once again that are to be done by the Developer; trash removal from the extension of Keefe Avenue only; snow removal of the entire Keefe Ave; a catch basin that will be put in the private road, the Town will not maintain the catch basin in the private road.

Motion amended by Mr. Moore to include the condition that the catch basin installed in Keefe Avenue shall be maintained by the Condo Association as discussed by Atty. Gearreald SECONDED by Mr. Nichols.

VOTE: 4-1(Woolsey)-0

The Board will discuss the issuance of the Building Permits on the private road (Keefe Avenue) at a later time.

2. Release of Federal Lands RSA 41:14 A "Ocean Wok and Harbor Road"

Atty. Gearreald updated the Board on the above subject: pursuant to last week's meeting, have started the process; letter sent to Planning Board and Conservation Commission for recommendations; two public hearings that need to be held; vote to release the Town's interest.

3. Action on 2013 Town Meeting Warrant Articles (Not including Articles 16, 17, 18)

Mr. Welch explained that the only action needed on the 2013 Warrant Articles is a letter to the State regarding the Lucky 7 and Beano article, which has been taken care of.

- a. Board of Selectmen
- b. Town Staff

Board Member Woolsey made comments as follows: what the Budget Committee was told in regards to Article 6 for Fire Apparatus; history of CIP fund for fire apparatus; Trustees of Trust Funds filing MS-9 form to report all funds; Trustees of Trust Fund not having knowledge of this fund.

- 4. Legal and Finance Review (Continued to April 01, 2013)
 - a. Revolving Fund – Articles 16, 17, 18

VII. Entertainment Licenses in-Process

- 1. 401 Tavern – 401 Lafayette Road
- 2. Sea Ketch Restaurant – 127 Ocean Blvd

It was noted that the Ashworth Hotel submitted this evening their application for an entertainment license.

VIII. Consent Agenda

- 1. Casino Ballroom Entertainment License
- 2. Boardwalk Café Entertainment License
- 3. Ocean Gaming at Hampton Beach Entertainment License
- 4. The Community Oven Entertainment License
- 5. The World's Greatest Karaoke Bar Entertainment License
- 6. Millie's Tavern on L Street Entertainment License
- 7. Ron Jillian's Italian Bar & Grill One-day Entertainment License 04/02/13
- 8. Smuttynose Rockfest and Marathon Parade & Public Gathering License 10/06/13
- 9. Conservation Commission Appointments
 - a. Peter Tilton – Full member 3 years
 - b. Ellen Goethel – Full member 3-years
 - c. Jamie Bradley – Alternate 3-years

Mr. Nichols MOTIONED to MOVE the Consent Agenda with the removal of item 5
SECONDED by Mr. Moore.

VOTE: 5-0-0

Mr. Nichols MOTIONED to MOVE Item #5 on the Consent Agenda after amended as follows: Strike outside the language referring to the Police Department note on the outside entertainment after 9PM, and insert the same language from last year in regards to use of the outside deck not being allowed after 11 pm
SECONDED by Mrs. Woolsey.

VOTE: 5-0-0

IX. Closing Comments

Mr. Pierce commented on the re-appearance of Sandwich Boards uptown on the sidewalks.

X. Adjournment

Mr. Pierce MOTIONED to adjourn the public meeting SECONDED by Mr. Nichols.

VOTE: 5-0-0

Chairman